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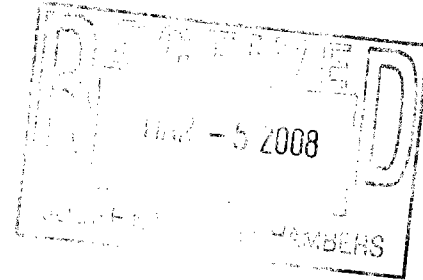
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March 3, 2008

BY HAND DELIVERY

MEMO ENDORSED

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street, Rm. 1310
New York, New York 10007-1312



Re: Costa v. City of New York, et al.,
07 Civ. 8032 (LAK)(AJP)
Law Dep't. No.: 2007-029207

Dear Judge Kaplan:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants in the above-referenced action in which plaintiff asserts a "class of one" theory of liability under the Equal Protection Clause. I write, on behalf of the parties to this action, to respectfully request that the Court amend the case management plan approved on October 16, 2007. This is the parties' first request for an amendment to the case management plan.

Plaintiff, a former Lieutenant employed by the City of New York ("City") in the City's Police Department ("NYPD"), brought this action pursuant to 42 U.S.C. § 1983, under a "class of one" Equal Protection Clause theory. Plaintiff alleges that defendants retaliated against him and constructively discharged him from his employment for issuing a summons to a "friend" of Deputy Commissioner Joseph Fox (sued herein as "Chief Fox").

On November 6, 2007, defendants moved to dismiss the complaint, pursuant to Rule 12(b)(6). By order, dated November 28, 2007, the Court granted defendants' motion, and dismissed the Complaint with leave to re-plead. On December 12, 2007, plaintiff filed an amended complaint and, on December 27, 2007, defendants moved to dismiss the Amended Complaint pursuant to Rule 12(b)(6), for failure to state a claim. Prior to that motion being decided, on February 22, 2008, the parties requested that the Court stay discovery pending resolution of the defendants' motion. The Court granted that application on February 28, 2008, and stayed discovery pending a decision on the defendants' pre-answer motion. On February 29, 2008, the Court granted in part, and denied in part defendants' motion to dismiss. Specifically,

HONORABLE LEWIS A. KAPLAN

United States District Judge

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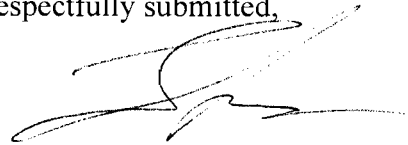
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the Court dismissed plaintiff's constructive discharge claim, but allowed plaintiff "class of one" claim to proceed, and denied Chief Fox qualified immunity. Pursuant to Rule 12(a)(4)(A), defendants will serve their answer to the Amended Complaint on or before March 14, 2008.

The parties respectfully request that the Court amend the case management plan and extend the deadlines for completion of discovery, and for the submission of a joint pre-trial order, from March 3, to April 18, 2008, and from April 3, to May 16, 2008, respectively. As noted above, this is the parties' first request for an amendment to the case management plan. The additional time is requested, among other things, to (1) permit the defendants an opportunity to answer the complaint; (2) allow defendants to obtain additional relevant documents from non-parties, including the Police Pension Fund; and (3) afford the parties an opportunity to tailor their discovery in light of the Court's February 29th decision partially granting the defendants' motion. The additional time is also requested because plaintiff's counsel has been out of state attending to a sick family member, and may not return to the office for several weeks. This request was not submitted earlier due to the stay of discovery which was in place until last Friday February 29. Moreover, because plaintiff's counsel is out of state, a stipulation could not be provided to the Court.

We thank the Court for its consideration of this request.

Respectfully submitted,



Ivan A. Mendez, Jr.
Assistant Corporation Counsel

cc: David M. Fish
(By Regular Mail)

MEMO ENDORSED

*Denial
as moot*

SO ORDERED

LEWIS A. KAPLAN, USDJ
3/6/08